

CALIFORNIA STATE BOARD OF EDUCATION

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DATE: October 1, 2003
TO: Members, Advisory Commission on Charter Schools
FROM: Greg Geeting, Assistant Executive Director

SUBJECT: Assembly Bill 1994 Implementation Regulations (Programmatic)
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Background

Assembly Bill 1994 (Chapter 1058, Statutes of 2002) contained a number of significant programmatic provisions affecting charter schools, and the bill requires the State Board to adopt regulations to implement certain aspects of the statutory changes. The Advisory Commission on Charter Schools (ACCS) discussed various versions of AB 1994 programmatic implementation regulations on several occasions, both in concept and with regard to certain specific elements. During August 2003, State Board members received an information memorandum with a version of the permanent regulations that the ACCS had tentatively endorsed in July. However, at its September 2003 meeting, the ACCS considered the regulations further, and proposed several significant changes. The attached draft reflects the ACCS-recommended changes, and it is anticipated to be the version presented to the State Board in November 2003 for purposes of beginning the rulemaking process. If the State Board does initiate the rulemaking process in November, the permanent regulations would likely be approved and operative (including review and sign-off by the Office of Administrative Law) in spring (or possibly summer) 2004.

Analysis

The latest version of the draft regulations – which is attached – is divided into four major sections. Each major section is identified below (along with the corresponding pages of the attachment), and the highlights of the section are then listed. In the attachment, the actual language of the relevant statute is shown before each of the major sections to help provide context for the draft of proposed regulations that follow.

Charter School “Numbering System”

Attachment Pages 1-4

- Assigns responsibility for maintenance of a charter school “numbering system” (as specified in AB 1994) with the CDE.
- Envisions CDE “reassigning” charter numbers when charter schools close (or fail to commence operations). Currently charter numbers are not reassigned. Therefore, the highest charter number bears no relationship to how many charter schools are actually operating in the state.

Assembly Bill 1994 Implementation Regulations (Programmatic)

October 1, 2003

Page 2

- Specifies that if we ever reach the cap on the number of charter schools that may operate in the state, any additional charters that may be approved will be held in the equivalent of a chronological queue, awaiting space to open up within the cap (e.g., through school closure or through cap expansion).
- Provides some clarification as to when an individual charter school would receive more than one charter number. AB 1994 indicates that multiple charter numbers are to be assigned to a school operating at multiple sites and providing fundamentally different educational programs or serving fundamentally different groups of students at the various sites. *[The ACCS recommended modifying the definition of “different pupil populations” to be entirely (rather than partially) permissive.]*

Appeals of Charter Denials

Attachment Pages 5-7

- Clarifies existing regulations to correspond with new statutory requirement that charters denied by local school districts may only be appealed to the State Board after first being appealed to (and denied by) the county board of education. *[The ACCS recommended eliminating a provision of existing regulation that places the burden on a charter petitioner submitting an appeal to provide a copy of the written factual findings justifying denial of the petition at the district or county level. Though required by statute, apparently some charter petitioners have been unable to obtain the written factual findings and, thus, have been precluded from pursuing appeals.]*

Statewide Charter Schools

Attachment Pages 8-15

- Elaborates upon the new creation of AB 1994: statewide charter schools. A petition to establish a statewide charter school is to be submitted directly to the State Board of Education. A key provision of statute is that a statewide charter school must provide instructional services of statewide benefit that cannot be provided by a charter school operating in only one school district, or only in one county. *[The ACCS recommended removing a substantial list of requirements that have typically imposed as “conditions” on schools chartered by the State Board on appeal. However, the ACCS left in a provision enabling the State Board to impose conditions on a case-by-case basis.]*
- Specifies that a statewide charter school must initially commence operations in at least two sites, and that the sites must be in different school districts or different counties.
- Provides for the orderly expansion of a statewide charter school. This is done in accordance with a list of sites (described by general location) approved at the same time the charter is approved. Specific sites added in accordance with the

Assembly Bill 1994 Implementation Regulations (Programmatic)

October 1, 2003

Page 3

list are signed-off by the CDE (with administrative decisions appealable to the State Board). Modification of the list itself requires State Board approval.

- Requires petitioners to make their case for “statewide benefit” based upon uniqueness of the educational program and the demonstration of benefit to pupils, communities, the state, and (as applicable) the school itself.
- Requires that petitions include a variety of key educational and operational elements, including a description of how the school and its various sites will participate in one or more special education local plan areas (SELPAs).
- Requires that any petitions for state charter schools be reviewed first by the ACCS, then forwarded with recommendations to the State Board. If the State Superintendent has different recommendations, they too are presented to the State Board.
- Establishes funding specifications for state charter schools that are approved by the State Board, including the assignment of various fiscal duties to a county office of education.

County Charter Schools

Attachment Pages 16-20

- Establishes funding specifications for charter schools approved upon direct submission to a county board of education. [AB 1994 provides for direct submission of petitions to county boards of education. Such petitions, if denied, are not appealable to the State Board.]

Contacts for Additional Information

If you have any questions about this document or about the attached draft of proposed regulations, please contact:

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[Attachment](#)